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QUESTION OF RESPONSIBILITY FOR ATTACKS ON UNITED  
NATIONS AND ASSOCIATED PERSONNEL AND MEASURES TO  
ENSURE THAT THOSE RESPONSIBLE FOR SUCH ATTACKS  
ARE BROUGHT TO JUSTICE

New Zealand: Proposal for a draft convention on responsibility  
for attacks on United Nations personnel

1. New Zealand welcomes the endorsement in the report of the Secretary-General on the security of United Nations operations (A/48/349) of the conclusion of a new international convention in the area of protection of United Nations personnel.
2. Having considered the matter carefully since we first raised the issue of the safety of United Nations personnel in the Security Council in March, and bearing in mind discussions in the Special Committee on Peace-keeping Operations, we consider that the most effective measure that could be taken at this stage is to establish beyond doubt in international law that persons who attack United Nations personnel are individually responsible. The new convention would therefore establish that those who attack United Nations personnel, and those who order the commission of such attacks, commit a crime punishable by any country in which they may be found.
3. As part of New Zealand's ongoing contribution to the United Nations work in this area, we annex hereto a draft convention on responsibility for attacks on United Nations personnel for consideration under agenda item 152.
4. The draft convention focuses on the question of legal responsibility for attacks on United Nations and associated personnel. New Zealand does not claim that this is the only issue relating to peace-keeping personnel which requires attention. We recognize that the safety of United Nations personnel is a multifaceted issue which deserves further work in other bodies of the United Nations (as elaborated in the report of the Secretary-General). There may well be scope for further - and mutually reinforcing - work of a political kind, through either a draft declaration or resolution, somewhere other than the Sixth Committee.

5. The present draft convention is modelled largely on established precedents, including the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents 1/ and the International Convention against the Taking of Hostages. 2/

6. It is not the purpose of the present draft to duplicate rights and obligations which exist already in other areas of international law. The draft convention focuses on the safety of United Nations personnel engaged in operations established pursuant to a mandate approved by the Security Council.

7. There are justifiable arguments (as contained in the report of the Secretary-General) for exploring the possibility of extending the scope of the convention to cover personnel deployed by any organ of the United Nations. New Zealand could support the extension of the scope of the convention to all United Nations personnel, including those persons stationed in a host State by any other humanitarian organization or agency, whose activities are carried out in connection with a United Nations operation.

8. In some respects the draft is only a framework. Once its substance has been agreed, there will be a need to elaborate a preamble as well as those articles for which only a heading has so far been provided. With respect to dispute settlement, we would envisage inclusion of an effective compulsory procedure for the resolution of disputes. However, at this stage New Zealand would like to focus on the substance of the draft convention.

9. We look forward to further discussion on the draft within the Sixth Committee.

#### Notes

1/ Concluded at New York on 14 December 1973: General Assembly resolution 3166 (XXVIII), annex.

2/ Concluded at New York on 17 December 1979: General Assembly resolution 34/146, annex.

Draft Convention on Responsibility for  
Attacks on United Nations Personnel

Article 1

Definitions

1. "Alleged offender" means a person as to whom there is sufficient evidence to determine prima facie that that person has committed one or more of the crimes set out in article 5.
2. "Secretary-General" means the Secretary-General of the United Nations.
3. "Security Council" means the organ established pursuant to Article 7 of the Charter of the United Nations.
4. "Specialized agency" means an agency established by intergovernmental agreement as envisaged in Article 57 of the Charter of the United Nations.
5. "United Nations operation" means an operation established pursuant to a mandate approved by a resolution of the Security Council.
6. "United Nations personnel" means those persons in respect of whom this Convention applies in accordance with article 2.

Article 2

Application of Convention

This Convention shall apply in respect of:

(a) Persons deployed by the Secretary-General to participate in a United Nations operation, and includes:

- (i) Military personnel;
- (ii) Police personnel;
- (iii) Associated civilian personnel;

(b) Persons deployed by the Secretary-General or a specialized agency or other organization or programme of the United Nations system to carry out activities in connection with a United Nations operation;

(c) Persons deployed by any other humanitarian organization or agency to carry out activities relating to a United Nations operation where such organization or agency is operating pursuant to an agreement with the Secretary-General.

### Article 3

#### Duty to ensure the safety and security of United Nations personnel

1. States Parties shall recognize a duty to take all appropriate measures to ensure the safety and security of United Nations personnel. In particular, States Parties shall take all appropriate steps to protect United Nations personnel who are deployed in their territory from attacks or other acts of violence.
2. In circumstances where a State Party is unable to exercise jurisdiction over persons responsible for attacks on United Nations personnel deployed in their territory, it shall cooperate with other States Parties and with the Secretary-General to ensure that an alleged offender is dealt with in accordance with the provisions of this Convention.

### Article 4

#### States to cooperate in preventing crimes against United Nations personnel

States Parties shall cooperate in the prevention of the crimes set out in article 5, particularly by:

- (a) Taking all practicable measures to prevent preparations in their respective territories for the commission of those crimes within or outside their territories;
- (b) Exchanging information and coordinating the taking of administrative and other measures as appropriate to prevent the commission of those crimes.

### Article 5

#### Crimes against United Nations personnel

1. The intentional commission of:
  - (a) A murder, kidnapping or other attack upon the person or liberty of any United Nations personnel;
  - (b) A violent attack upon the official premises, the private accommodation or the means of transportation of any United Nations personnel likely to endanger his/her person or liberty;
  - (c) A threat to commit any such attack;
  - (d) An attempt to commit any such attack;

(e) An act constituting participation as an accomplice in any such attack, which includes organizing, or directing, or inciting others to commit any such attack,

shall be made by each State Party a crime under its national law.

2. Each State Party shall make these crimes punishable by appropriate penalties which take into account their grave nature.

3. Nothing in paragraphs 1 and 2 above shall derogate from the obligations of States Parties under international law to take all appropriate measures to prevent other attacks on the person, freedom or dignity of United Nations personnel.

#### Article 6

##### Establishment of jurisdiction

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the crimes set out in article 5 in the following cases:

(a) When the crime is committed in the territory of that State or on board a ship or aircraft registered in that State;

(b) When the alleged offender is a national of that State;

(c) When the crime is committed with respect to a national of that State, if that State considers it appropriate.

2. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the crimes set out in article 5 in cases where the alleged offender is present in its territory and it does not extradite such person pursuant to article 10 to any of the States referred to in paragraph 1 above.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

#### Article 7

##### Communication of information regarding alleged offenders

1. The State Party in which any of the crimes set out in article 5 has been committed shall, if it has reason to believe that an alleged offender has fled from its territory, communicate to the Secretary-General and, directly or through the Secretary-General, to all other States concerned all the pertinent facts regarding the crime committed and all available information regarding the identity of the alleged offender.

2. Whenever any of the crimes set out in article 5 has been committed against any United Nations personnel, any State Party which has information concerning the victim and the circumstances of the crime shall endeavour to transmit it,

under the conditions provided for in its national law, fully and promptly to the Secretary-General and the interested State or States.

#### Article 8

##### Measures to ensure prosecution or extradition

1. Upon being satisfied that the circumstances so warrant, the State Party in whose territory the alleged offender is present shall take the appropriate measures under its national law so as to ensure that person's presence for the purpose of prosecution or extradition.
2. Measures taken in accordance with paragraph 1 above shall be notified without delay to the Secretary-General and, either directly or through the Secretary-General, to:
  - (a) The State where the crime was committed;
  - (b) The State or States of which the alleged offender is a national or, if such person is a stateless person, in whose territory that person permanently resides;
  - (c) The State or States of which the victim is a national;
  - (d) All other States concerned;
  - (e) Any relevant specialized agency or other organization, programme or agency.
3. Any alleged offender shall be entitled:
  - (a) To communicate without delay with the nearest appropriate representative of the State of which such person is a national or which is otherwise entitled to protect that person's rights or, if such person is a stateless person, which that person requests and is willing to protect that person's rights;
  - (b) To be visited by a representative of that State.

#### Article 9

##### Prosecution of alleged offenders

The State Party in whose territory the alleged offender is present shall, if it does not extradite that person, submit, without exception whatsoever and without undue delay, the case to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State.

#### Article 10

##### Arrangements for extradition of alleged offenders

1. To the extent that the crimes set out in article 5 are not listed as extraditable offences in any extradition treaty existing between States Parties, they shall be deemed to be included as such therein. States Parties undertake to include those crimes as extraditable offences in every extradition treaty to be concluded between them.
2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may at its option consider this Convention as the legal basis for extradition in respect of those crimes. Extradition shall be subject to the conditions provided by the law of the requested State.
3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize those crimes as extraditable offences between themselves subject to the conditions provided by the law of the requested State.
4. Each of the crimes shall be treated, for the purpose of extradition between States Parties, as if it had been committed not only in the place in which it occurred but also in the territories of the States required to establish their jurisdiction in accordance with article 6, paragraph 1.

#### Article 11

##### Mutual assistance in criminal proceedings

1. States Parties shall afford each other the greatest measure of assistance in connection with criminal proceedings brought in respect of the crimes set out in article 5, including the supply of all evidence at their disposal necessary for the proceedings.
2. Paragraph 1 above shall not affect the obligations arising from the provisions of any other treaty, bilateral or multilateral, which governs or will govern, in whole or part, mutual assistance in criminal matters.

#### Article 12

##### Fair treatment for alleged offenders

Any person regarding whom proceedings are being carried out in connection with any of the crimes set out in article 5 shall be guaranteed fair treatment at all stages of the proceedings.

Article 13

Notification of outcome of proceedings

The State Party where an alleged offender is prosecuted shall communicate the final outcome of the proceedings to the Secretary-General, who shall transmit the information to other States Parties.

Article 14

United Nations personnel to respect international humanitarian law

Nothing in this Convention shall be construed so as to derogate from the responsibility of United Nations personnel to respect international humanitarian law.

Article 15

Dissemination

The States Parties undertake to disseminate this Convention as widely as possible and, in particular, to include the study thereof, as well as relevant provisions of international humanitarian law, in their programmes of military instruction and to encourage the study thereof by the civilian population, so that the provisions of this Convention may become known to the armed forces and to the civilian population.

Article 16. Dispute settlement

Article 17. Signature/ratification/accession

Article 18. Entry into force

Article 19. Denunciation

Article 20. Authentic texts

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NATIONS AND ASSOCIATED PERSONNEL AND MEASURES TO  
ENSURE THAT THOSE RESPONSIBLE FOR SUCH ATTACKS  
ARE BROUGHT TO JUSTICE

Letter dated 7 October 1993 from the Permanent Representative  
of Ukraine to the United Nations addressed to the  
Secretary-General

I have the honour to transmit herewith the text of the draft International Convention on the status and safety of the personnel of the United Nations force and associated civilian personnel (see annex).

I would be grateful if you have the text of the present letter and its annex circulated as a document of the General Assembly at its forty-eighth session under agenda item 152.

(Signed) Victor H. BATIOUK  
Ambassador  
Permanent Representative

Annex

DRAFT INTERNATIONAL CONVENTION ON THE STATUS AND SAFETY OF  
THE PERSONNEL OF THE UNITED NATIONS FORCE AND ASSOCIATED  
CIVILIAN PERSONNEL: PROPOSAL SUBMITTED BY UKRAINE

PREAMBLE

The States Parties,

Reiterating their earnest wish to see peace prevail among peoples,

Recalling that every State has the duty, in conformity with the relevant norms of international law, to refrain in its international relations from the threat or use of force against the sovereignty, territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes and principles of the Charter of the United Nations,

Acknowledging the vital importance of the involvement of the personnel of the United Nations force and associated civilian personnel in preventive diplomacy, peacemaking, peace-keeping, peace-building and humanitarian operations,

Conscious of the existing arrangements for ensuring the safety of the personnel of the United Nations force and associated civilian personnel, as well as of the steps taken by the principal organs of the United Nations in this regard,

Convinced that deployment of the United Nations peace-keeping operations is an integral component of the United Nations peace efforts which enhance the effectiveness of the United Nations in the maintenance of international peace and security,

Bearing in mind that increasing activities of the United Nations in the field of preventive diplomacy, peacemaking, peace-keeping, peace-building and humanitarian operations require provision of extensive human, financial, and material resources for the Organization,

Appealing to all States in whose territory the personnel of the United Nations force and associated civilian personnel are deployed in connection with the mandate adopted by the United Nations Security Council, and to all parties concerned, to provide comprehensive support aimed at facilitating the conduct of an operation, and urging them to respect and guarantee the safety of those personnel,

Stressing the need for adequate protection of the personnel participating in preventive diplomacy, peacemaking, peace-keeping, peace-building and humanitarian operations in accordance with the norms and principles of international law,

Have agreed on the following:

PART I

GENERAL PROVISIONS

Article 1

General principles and scope

1. The States Parties undertake to respect and to ensure the respect for the present Convention in all circumstances.
2. In cases not covered by the present Convention or by other international agreements, the personnel of the United Nations force and associated civilian personnel remain under the protection of universally recognized principles of international law, in particular, norms of international humanitarian law.
3. The present Convention shall apply in the cases of settlement of armed conflicts between two or among several States Parties which threaten international peace and security and in which the personnel of the United Nations force and associated civilian personnel are involved in accordance with the decision of the Security Council.
4. The present Convention shall also apply to a non-international conflict within a State Party when such conflict runs the risk of developing into an international one, or when representative authorities of a State Party have requested the United Nations Security Council to deploy in its territory the United Nations peace-keeping operation.
5. Unless it is explicitly stipulated otherwise, the provisions of the present Convention shall apply exclusively to the area where the United Nations peace-keeping operation is deployed.
6. If one of the parties to a conflict is not a State Party to the present Convention, the States Parties shall nevertheless remain bound by its provisions in their relations.

Article 2

Definitions

For the purposes of the present Convention:

(a) "United Nations peace-keeping operation" means the deployment of a United Nations presence in the area of conflict in accordance with the mandate approved by a resolution of the Security Council, aimed, inter alia, at prevention, maintaining or restoring international peace and security, exclusively in the common interest of the international community, disengaging the conflicting parties, creating conditions for the peaceful settlement of a conflict, monitoring a cease-fire and compliance with peace agreements, as well as for rendering humanitarian assistance to the civilian population in the area of deployment, it being understood that the United Nations peace-keeping

operation shall be conducted on the request or with the consent of the parties concerned;

(b) "Personnel of the United Nations force" means a contingent of the United Nations personnel, participating in the United Nations peace-keeping operation, including military personnel and/or military observers contributed by Member States on the request of the Secretary-General and with the approval of the Security Council of the United Nations for carrying out a mandate approved by the Security Council for a specific operation, as well as civilian police personnel and civilian political officers, human rights monitors, electoral officials, refugee and humanitarian aid specialists, etc., provided by Member States;

(c) "Associated civilian personnel" means all personnel deployed or stationed in an area of a peace-keeping operation by a specialized agency or other organization or programme of the United Nations system to carry out activities in connection with the performance of a mandate approved by the Security Council, as well as all persons deployed or stationed in an area by any other humanitarian organization or agency to carry out activities pursuant to an arrangement with the United Nations relating to the performance of a mandate approved by a resolution of the Security Council.

### Article 3

#### Identification

The United Nations shall take appropriate measures to make the personnel of the United Nations force and associated civilian personnel as well as buildings and equipment identifiable when they are exclusively destined for carrying out a mandate approved by the Security Council, namely:

(a) The United Nations flag shall be hoisted in the headquarters, camps or other premises, areas of stationing of the personnel of the United Nations force and associated civilian personnel in the country where the United Nations peace-keeping operation is conducted;

(b) Ground-, water- and air-transportation vehicles of the personnel of the United Nations force and associated civilian personnel shall be marked by the distinctive United Nations emblem and reported to the Government of a State in whose territory the United Nations peace-keeping operation is conducted;

(c) Personnel of the United Nations force and associated civilian personnel shall at all times carry the distinctive emblem on its uniform, which also shall be reported to the Government of a State in whose territory the United Nations peace-keeping operation is conducted. In cases when part of the territory is occupied, such information shall be reported to the administration exercising actual authority over that part of the territory;

(d) Military personnel and civilian police personnel when executing official duties shall wear national military or police uniform;

(e) Each State Party, as well as a party to a conflict, shall endeavour to adopt and implement methods and procedures which will make it possible to identify the personnel of the United Nations force and associated civilian personnel and transports which use the distinctive emblem;

(f) In an area where fighting is taking place or is likely to take place, the personnel of the United Nations force and associated civilian personnel should be identified by the distinctive emblem and an identity card certifying their international status.

## PART II

### STATUS OF THE PERSONNEL OF THE UNITED NATIONS FORCE AND ASSOCIATED CIVILIAN PERSONNEL

#### Article 4

##### Respect for international character

The Government of a State Party in whose territory the United Nations peace-keeping operation is conducted or the administration exercising actual authority over the territory in question and/or the area of the operation shall respect the exclusive international character of the personnel of the United Nations force and associated civilian personnel.

#### Article 5

##### Privileges and immunities of the personnel of the United Nations force and associated civilian personnel

1. Personnel of the United Nations force and associated civilian personnel shall have the right of unimpeded entry and exit to and from a State in whose territory the United Nations peace-keeping operation is conducted. For the purposes of such entry or exit, personnel of the United Nations force and associated civilian personnel require only an identity document issued by the Special Representative/Force Commander. Excepted shall be the cases of initial entry when an identity document issued by the competent authorities of a State Party shall be accepted.
2. Existing national passport and visa regulations, as well as immigration formalities, shall not be applied. Nor shall any provisions governing the stay in the country of foreign nationals, including registration, be applied. Those personnel, however, shall not be considered as having the right of permanent residence in such country.
3. Personnel of the United Nations force and associated civilian personnel in fulfilling their duties shall be accorded the following privileges and immunities:

(a) Immunity from personal arrest or detention, as well as from any kind of legal process in respect of words spoken or written and all acts performed by them in their official capacity;

(b) Exemption from taxes on salaries and remunerations received from the United Nations or from their home Government, as well as, exemption from all other direct taxes, except municipal ones for rendered services;

(c) Exemption from custom duties and charges for all private correspondence, money orders, printed materials and parcels sent or received by the personnel of the United Nations force and associated civilian personnel;

(d) Other privileges and immunities to be determined in the status-of-forces agreement on the basis of the provisions of article V of the Convention on the Privileges and Immunities of the United Nations of 1946.

#### Article 6

##### The right to carry arms

1. Military personnel and civilian police personnel shall have the right to have and carry arms and to use them in self-defence when fulfilling their functions mandated to them by the United Nations Security Council.

2. The type of arms and rules of engagement shall be determined by a specific provision in a mandate adopted for each United Nations peace-keeping operation by a resolution of the Security Council.

#### Article 7

##### Respect for the laws and regulations of the host country

1. Without prejudice to their privileges and immunities and the fulfilment of their duties, the personnel of the United Nations force and associated civilian personnel shall respect the laws and regulations of a State Party in whose territory the United Nations peace-keeping operation is conducted.

2. In case a crime is committed by a member of the personnel of the United Nations force and associated civilian personnel, the jurisdiction of the State of permanent citizenship shall apply.

## PART III

OBLIGATIONS OF STATES PARTIES AND REPRESSION OF BREACHES  
OF THE CONVENTIONArticle 8Obligations of a State Party where the peace-keeping  
operation is conducted

1. A State Party in whose territory the United Nations peace-keeping operation is conducted undertakes to provide comprehensive support to the personnel of the United Nations force and associated civilian personnel in fulfilling their functions and to take all necessary measures to ensure respect for and guarantee the safety and security of those personnel.

2. The Government of a State Party in whose territory the United Nations peace-keeping operation is conducted shall guarantee the criminal prosecution of persons initiating hostile acts against the personnel of the United Nations force and associated civilian personnel. That Government shall act promptly and efficiently to deter, prosecute and punish all those responsible for attacks and other acts of violence against such personnel.

3. In the situation where the Government of a State Party in whose territory the United Nations peace-keeping operation is conducted is unable to exercise jurisdiction in order to ensure the safety and security of such personnel, it will fully cooperate with other States Parties in order to act collectively to ensure that persons responsible for carrying out authorizing or acquiescing in attacks and other acts of violence against the personnel of the United Nations force and associated civilian personnel are held responsible for international offences.

Article 9Cooperation

In a situation of serious violations of the present Convention, the States Parties undertake to act, jointly or individually, in cooperation with the United Nations Security Council and in conformity with the Charter of the United Nations, including Chapter VII thereof.

Article 10Breaches of the Convention

Attacks and other acts of violence, whether actual or threatened, against the personnel of the United Nations force and associated civilian personnel, including kidnapping, obstruction or detention of persons, shall be considered as criminal offences and will entail international responsibility in accordance with the present Convention and relevant norms of international law.

Article 11

Responsibility

A party to a conflict shall be responsible for the breaches of the present Convention committed by persons forming part of its armed forces, as well as by civilians under its control or jurisdiction.

Article 12

Right of self-defence of military personnel of the  
United Nations force

In case of grave violations of the provisions of the present Convention by armed forces or armed groups of a party to a conflict, military personnel of the United Nations force shall have the right to act in self-defence in accordance with the rules of engagement adopted for each peace-keeping operation, which may be widened or specified on the basis of a special decision taken by the United Nations Security Council.

Article 13

Recall of the United Nations personnel

If cases stipulated in article 10 continue to occur, a State Party whose personnel are engaged in the United Nations peace-keeping operation shall have the right to recall that personnel as not adequately protected.

Article 14

Compensation

In case of death, wounding or other injury of a member of the personnel of the United Nations force or associated civilian personnel or damage of equipment and technical means of the United Nations peace-keeping force, the United Nations shall pay compensation to the beneficiary upon the request of a State whose national is killed or injured or whose property and equipment are damaged. The amount of compensation shall be determined by the United Nations on the basis of a unified approach.

PART IV

FINAL PROVISIONS

Article 15

Signature

The present Convention shall be open for signature by all States.

/...

Article 16

Ratification

The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations, depositary of the present Convention.

Article 17

Accession

The present Convention shall be open for accession by any State. Instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 18

Entry into force

The present Convention shall enter into force \_\_\_\_ days after \_\_\_\_ instruments of ratification or accession have been deposited with the Secretary-General of the United Nations.

Article 19

Denunciation

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations.

Article 20

Authentic texts

The original of the present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

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